

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
CIVIL NO. 3:06CV202-MU**

DARLENE MARTIN KANE,)
 Plaintiff,)
)
 vs.)
)
JO ANNE B. BARNHART,)
Commissioner of Social)
Security Administration,)
 Defendant.)
_____)

ORDER

THIS MATTER is before the Court on the Plaintiff's "Motion for Entry of Default" (document #5) filed February 7, 2007.

On May 3, 2006, the pro se Plaintiff filed her Complaint, which the District Judge to whom this case is assigned (the Honorable Graham C. Mullen) has previously determined is an appeal of the Commissioner of the Social Security Administration's decision to deny the Plaintiff's claim for Social Security disability benefits. See "Order" (document #3) (granting the Plaintiff's "Motion to Proceed Informa Pauperis"). The Plaintiff failed, however, to name the Commissioner as the Defendant, instead identifying the Defendant as "Social Security Income Disability" and giving the address of the local Social Security hearing office, rather than the Commissioner's address and/or the United States Attorney's Office, as the address for service of the Summons. Accordingly, the Defendant has not been served properly with the Summons and Complaint, and the Plaintiff's Motion for Entry of Default must and will be denied.

In light of the Plaintiff's pro se status, however, the undersigned will substitute the Commissioner as the proper party Defendant and direct the Clerk of Court to amend the case caption

to reflect the correct Defendant and to reissue the Summons to the Defendant.

NOW, THEREFORE, IT IS ORDERED:

1. The Plaintiff's "Motion for Entry of Default" (document #5) is **DENIED**.
2. The Commissioner of the Social Security Administration is **SUBSTITUTED** as the proper party Defendant in this action, and the Clerk of Court is directed to amend the case caption to reflect that the Commissioner of the Social Security Administration is the proper party Defendant.
3. The time for service of process is extended 120 days from this date.
4. The Clerk is directed to prepare Summonses addressed to the Commissioner of the Social Security Administration and to the United States Attorney for the Western District of North Carolina and deliver them, along with a copy of the Complaint and this Order, to the United States Marshal for service at government expense.
5. The Clerk is directed to send copies of this Order to counsel for the parties; and to the Honorable Graham C. Mullen.

SO ORDERED.

Signed: February 8, 2007

Carl Horn, III

Carl Horn, III
United States Magistrate Judge

